

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : Case No.:23-cr-0347

Plaintiff, :

-against- :

ALEXANDER MASHINSKY, : New York, New York

Defendant. : July 13, 2023

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TRANSCRIPT AND STATUS CONFERENCE HEARING

BEFORE THE HONORABLE ONA T. WANG

UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: UNITED STATES ATTORNEY'S OFFICE  
SOUTHERN DISTRICT OF NEW YORK  
BY: NOAH SOLOWIEJCZYK, AUSA  
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For Defendant: YANKWITT LLP  
BY: Benjamin R. Allee, Esq.  
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1 THE DEPUTY CLERK: This is 22-cr-347; The  
2 United States versus Alexander Mashinsky before the  
3 Honorable Ona T. Wang.

4 Please state your appearances for the  
5 record.

6 MR. SOLOWIEJCZYK: Good afternoon,  
7 Your Honor. Noah Solowiejczyk on behalf of the  
8 government. I'm joined by AUSA Allison Nichols.

9 THE COURT: Good afternoon.

10 MR. ALLEE: Good afternoon, Your Honor.  
11 Benjamin Allee and Cassandra Vogel; Yankwitt LLP for  
12 the defendant, Alex Mashinsky, who is seated to my  
13 right.

14 THE COURT: Good afternoon.

15 Good afternoon, Mr. Mashinsky.

16 THE DEFENDANT: Good afternoon.

17 THE COURT: All right. Mr. Mashinsky,  
18 are you able to speak and understand English?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. You don't need to  
21 stand up. You can stay seated.

22 THE DEFENDANT: Okay.

23 MR. ALLEE: Thank you, Your Honor.

24 THE COURT: All right. Can I have the  
25 date time of arrest, please.

1 MR. SOLOWIEJCZYK: Your Honor, the  
2 defendant was arrested this morning at approximately  
3 6:30 a.m.

4 THE COURT: All right. I am Judge Wang.  
5 You are here because you are charged with certain  
6 crimes by an indictment. Do you have a copy of the  
7 indictment, Mr. Mashinsky?

8 THE DEFENDANT: Yes.

9 THE COURT: The purpose of today's  
10 proceeding is to advise you of certain rights that  
11 you have, inform you of the charges against you,  
12 consider whether counsel need be appointed for you,  
13 and decide under what conditions, if any, you shall  
14 be released pending trial.

15 I'm now going to explain certain  
16 constitutional rights that you have. You have the  
17 right to remain silent. You are not required to  
18 make any statements. Even if you have already made  
19 statements to the authorities, you do not need to  
20 make any further statements. Any statements that  
21 you do make can be used against you.

22 You have the right to be released,  
23 whether conditionally -- either conditionally or  
24 unconditionally, pending trial, unless I find that  
25 there are no conditions that would reasonably assure

1 your presence at future court appearances and the  
2 safety of the community.

3 If you are not a United States citizen,  
4 you have the right to request that a government  
5 attorney or a law enforcement official notify a  
6 consular officer from your country of origin that  
7 you have been arrested. In some cases, a treaty or  
8 other agreement may require the United States  
9 government to give that notice, whether you request  
10 it or not.

11 You have the right to be represented by  
12 an attorney during all court proceedings, including  
13 this one, and during all questioning by the  
14 authorities. You have the right to hire your own  
15 attorney. If you cannot afford an attorney, I can  
16 appoint one today to represent you.

17 Do you understand your rights as I have  
18 just explained them?

19 THE DEFENDANT: Yes, I do.

20 THE COURT: All right. I understand that  
21 your retained counsel is here today and you're not  
22 seeking appointment of counsel at this time.

23 And I understand, Mr. Solowiejczyk, we're  
24 here for arraignment as well; is that right?

25 MR. SOLOWIEJCZYK: Yes. Judge Koeltl has

1 referred this matter for both presentment and  
2 arraignment.

3 THE COURT: All right.

4 All right, Mr. Mashinsky, a grand jury of  
5 the Southern District of New York has returned an  
6 indictment against you, charging you with certain  
7 offenses, and they are as follows.

8 It is a seven-count indictment. Count 1  
9 is a securities fraud count. Count 2 is commodities  
10 fraud. Count 3 charges you with wire fraud.  
11 Count 4 charges you with conspiracy to manipulate  
12 the price of CEL. Count 5 charges you with a  
13 fraudulent scheme to manipulate the price of CEL.  
14 Count 6 charges a market manipulation of the CEL  
15 token. And Count 7 charges wire fraud.

16 Counsel, have you received a copy of the  
17 indictment?

18 MR. ALLEE: Yes, Your Honor, we received  
19 a copy of the indictment. We waive a public  
20 reading. We enter a plea of not guilty on all  
21 charges on Mr. Mashinsky's behalf.

22 THE COURT: All right. And have you  
23 reviewed the indictment with your client?

24 MR. ALLEE: Yes, Your Honor. We have had  
25 sufficient time to review it with our client, and we

1 have done so.

2 THE COURT: All right. And,  
3 Mr. Mashinsky, do you understand the charges that  
4 you face?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: And I understand that you  
7 wish to enter a plea of not guilty; is that right?

8 THE DEFENDANT: That's correct.

9 THE COURT: All right. Pursuant to 5 --  
10 Federal Rule of Criminal Procedure 5(f), I remind  
11 the government of its obligations under *Brady v.*  
12 *Maryland* and its progeny to disclose to the defense  
13 all information, whether admissible or not, that is  
14 favorable to the defendant, material either to guilt  
15 or to punishment, and known to the government. The  
16 government must make good-faith efforts to disclose  
17 such information to the defense as soon as  
18 reasonably possible after its existence becomes  
19 known to the government.

20 As part of these obligations, the  
21 government must disclose information that can be  
22 used to impeach the trial testimony of a government  
23 witness within the meaning of *Giglio v. United*  
24 *States* and its progeny, and must do so sufficiently  
25 in advance of trial in order for the defendant to

1 make effective use of it at trial.

2 I remind you that these obligations are  
3 continuing and that they apply to information  
4 whether or not you credit it. Possible consequences  
5 for non-compliance may include dismissal of  
6 individual charges or of the entire case, exclusion  
7 of evidence, and professional discipline or court  
8 sanctions on the attorneys responsible.

9 I will be entering a written order more  
10 fully describing this obligation and the possible  
11 consequences of failing to meet it, and I direct the  
12 prosecution to review and comply with the order.

13 Does the prosecution confirm that it  
14 understands its obligations and will fulfill them?

15 MR. SOLOWIEJCZYK: Yes, Your Honor.

16 THE COURT: All right. Also, a plea of  
17 not guilty will be entered. The record should  
18 reflect that the defendant is now arraigned.

19 I'll hear next from the government as to  
20 bail, detention or release. I understand there may  
21 be an agreement regarding release pending trial.

22 MR. SOLOWIEJCZYK: Yes, Your Honor.  
23 We've had a chance to discuss with defense counsel  
24 and review the Pretrial Services report, and we have  
25 a joint proposal for bail for Your Honor's

1 consideration.

2 THE COURT: All right. Why don't you go  
3 over it with me.

4 MR. SOLOWIEJCZYK: So it would consist of  
5 a \$40 million personal recognizance bond that would  
6 be secured by the defendant's Manhattan residence,  
7 as well as a brokerage account that he holds at  
8 First Republic Bank. It would be co-signed by two  
9 financially responsible persons; one being the  
10 defendant's wife, and the other being another  
11 individual that the government will approve within  
12 one week's time. And as to the defendant's wife,  
13 she would have until the end of the day tomorrow to  
14 sign the bond. And the second co-signer would have  
15 until next Friday to sign the bond.

16 The defendant would surrender all of his  
17 travel documents. No new applications. Pretrial  
18 Services as -- Pretrial supervision as directed.  
19 Travel restricted to the Eastern District and  
20 Southern District of New York. The defendant would  
21 be prohibited from opening any new financial,  
22 business or personal bank accounts, lines of credit,  
23 or cryptocurrency accounts without Pretrial  
24 Services' permission.

25 I think I said that he would have to



1       surrender all travel documents and make no new  
2       applications, but if I failed to, that would also be  
3       a condition. And I think defense counsel has the  
4       defendant's passports and could provide them to  
5       Pretrial.

6               THE COURT: Okay. What about temporary  
7       additional travel on consent or no?

8               MR. SOLOWIEJCZYK: I think it would be  
9       case by case. It would require government and  
10       Pretrial consent.

11              THE COURT: Right. Okay. That's another  
12       condition.

13              The proposed conditions that were  
14       provided to me just says no new accounts or lines of  
15       credit without Pretrial Services' approval. And  
16       what you just read seems a little bit more involved.  
17       Could you say that again.

18              MR. SOLOWIEJCZYK: Sure, I can. And  
19       that's based on -- this is from the Pretrial  
20       Services report. It was more complete, and we  
21       thought it made sense. Happy to read it again.

22              The defendant would be prohibited from  
23       opening any new financial, business or personal bank  
24       accounts, lines of credit or cryptocurrency accounts  
25       without the approval of Pretrial Services.

1 THE COURT: All right.

2 MR. SOLOWIEJCZYK: Actually, I have one  
3 question for defense counsel. Give me one second.

4 THE COURT: Okay. Go ahead.

5 MR. SOLOWIEJCZYK: Defense counsel  
6 informs me Pretrial already has the two passports.

7 THE COURT: Okay. What about the  
8 proposed condition -- and I guess there's no --  
9 there's no crypto accounts to secure; is that right?

10 MR. SOLOWIEJCZYK: Yes. So the bond is  
11 secured by his Manhattan residence and then a  
12 brokerage account at First Republic Bank. And the  
13 defendant would have two weeks -- sorry -- one week  
14 to perfect the government's lien as to the residence  
15 and the government's interest in the First Republic  
16 account.

17 THE COURT: All right. That's not really  
18 what my question was. It said -- the proposed  
19 condition as set forth by Pretrial Services was, "Do  
20 not open any new financial, business or personal  
21 bank accounts, lines of credit or cryptocurrency  
22 accounts without the approval of Pretrial Services."  
23 And I'm just asking whether there are any other  
24 cryptocurrency accounts currently in existence.

25 MR. SOLOWIEJCZYK: Your Honor, based on

1     our investigation, we believe there are, but I think  
2     it makes sense to -- if he's -- to prevent him from  
3     doing so without Pretrial permission, particularly  
4     given this case involves crypto and the defendant  
5     making millions and millions of proceeds through  
6     selling crypto.

7                     THE COURT:    I --

8                     MR. ALLEE:    Your Honor --

9                     THE COURT:    Go ahead, Mr. Allee.

10                    MR. ALLEE:    We had our Pretrial interview  
11     today.  Mr. Mashinsky answered all questions fully  
12     from Pretrial regarding his financial circumstances.  
13     We understand that Pretrial recommended a term  
14     beyond the standard conditions, which Your Honor is  
15     referring to regarding the opening of new accounts.  
16     And in consultation with the government to reach the  
17     bail package that's being proposed to Your Honor on  
18     consent, we're agreeable to that additional  
19     condition.  And Mr. Mashinsky understands that if  
20     Your Honor agrees with the proposal and orders that,  
21     that he would be unable to open a new account  
22     without first going to Pretrial Services and without  
23     their approval.

24                    MR. SOLOWIEJCZYK:  Your Honor, I don't  
25     think I fully understood Your Honor's concern.  Now,

1 I think my colleague has, sort of, expressed it to  
2 me.

3 One of the reasons we think it's  
4 important is the government's investigation has  
5 shown that the defendant certainly, at least in the  
6 past, has had accounts at various cryptocurrency  
7 exchanges, and he's -- you know, was somebody who  
8 traded in crypto. And there's allegations in the  
9 indictment, in fact, that relate to his selling of  
10 the CEL token to receive proceeds in crypto. That's  
11 the reason that it makes sense for it to be in  
12 there.

13 THE COURT: Oh, I'm not questioning that  
14 reason.

15 MR. SOLOWIEJCZYK: Okay.

16 THE COURT: My questioning is whether  
17 there are any currently extant crypto accounts that  
18 need to be secured. And --

19 Go ahead.

20 And I understand from defense counsel  
21 that -- I guess the representation is that there are  
22 no undisclosed -- I mean, everything -- all the  
23 financial assets have been disclosed on the Pretrial  
24 Services report?

25 MR. ALLEE: Yes, Your Honor.

1           Mr. Mashinsky appeared for the interview,  
2           answered all the questions about his financial  
3           background from Pretrial fully. I will add, because  
4           I think it goes to Your Honor's point -- or to this  
5           inquiry, that we have had discussions with the  
6           government in the past. This -- Mr. Mashinsky was  
7           aware that there was an investigation. And we've  
8           been, from our view, fulsome in providing them  
9           information to address any concern they have about  
10          his accounts. And we're not aware of any  
11          currently -- about, as Your Honor phrased it,  
12          "extant accounts," but if the government had such a  
13          concern, we would certainly address it in the way we  
14          have in the past by being as fulsome as we can with  
15          them.

16                 For today's purposes, we -- the point I  
17          want to get across is that he answered all the  
18          questions, and we have a package that we think  
19          should be satisfactory, we're hopeful the Court  
20          finds satisfactory for purposes of addressing the  
21          concerns that -- about his return to court.

22                 THE COURT: All right.

23                 MR. ALLEE: Thank you, Your Honor.

24                 THE COURT: Okay. Thank you.

25                 I guess -- okay. I -- in the past --

1 never mind. I take that back.

2 This is your agreement. And -- all  
3 right.

4 So let me review the proposed terms of  
5 the agreed-upon bail package. And I just wanted to  
6 make sure to check with everybody once I do review  
7 all the terms that nobody has any other concerns or  
8 terms that are missing or anything like that; okay?

9 All right. So based on my review of the  
10 indictment, the Pretrial Services report, and the  
11 agreement of counsel, I accept the recommendation as  
12 follows: Mr. Mashinsky will be released on the  
13 following conditions. They are a \$40 million  
14 personal recognizance bond co-signed by two  
15 financially responsible persons and secured by  
16 defendant's Manhattan residence, as well as the  
17 First Republic brokerage account.

18 Travel is restricted to the Southern and  
19 Eastern Districts of New York, with temporary  
20 additional travel upon consent of the government and  
21 approval of Pretrial Services.

22 To the extent they have not already been  
23 surrendered, surrender all travel documents and make  
24 no new applications. Pretrial supervision as  
25 directed. And he may be released on his own

1 signature today.

2 The first financially responsible  
3 co-signer, the defendant's wife, must sign the bond  
4 by Friday, July 14th. The second financially  
5 responsible co-signer must be approved within one  
6 week, which is July 20th, and must then sign the  
7 bond by Friday, July 21st.

8 The defendant must file documents within  
9 one week to perfect the government's lien on the New  
10 York City residence and the government's lien on the  
11 defendant's account at First Republic Bank.

12 And then the defendant is not to open any  
13 new financial, business or personal bank accounts,  
14 lines of credit, or cryptocurrency accounts without  
15 the approval of Pretrial Services.

16 Did I miss anything?

17 MR. SOLOWIEJCZYK: From the government's  
18 perspective, we think you covered everything,  
19 Your Honor.

20 MR. ALLEE: No, Your Honor.

21 THE COURT: Okay. Anything else to add  
22 for Pretrial?

23 PRETRIAL SERVICES: No, Your Honor.

24 THE COURT: All right. Thank you.

25 All right, Mr. Mashinsky, if you fail to

1 appear in court as required, or if you violate any  
2 of the conditions of your release, one, a warrant  
3 will be issued for your arrest. Two, you and anyone  
4 who signed the bond will each be responsible for  
5 paying its full amount, that is, \$40 million. And  
6 three, you may be charged with a separate crime of  
7 bail-jumping, which can mean additional jail time  
8 and/or a fine.

9 In addition, if you commit a new offense  
10 while you are released, in addition to the sentence  
11 prescribed for that offense, you will be sentenced  
12 to an additional term of imprisonment of not more  
13 than ten years if the offense is a felony, or not  
14 more than one year if the offense is a misdemeanor.  
15 This term of imprisonment would be executed after  
16 any other sentence of imprisonment is completed.

17 While you're awaiting trial, I also must  
18 warn you not to have any contact with or engage in  
19 any intimidation of potential or designated  
20 witnesses or jurors, not to engage in any  
21 intimidation of any court officer, and not to engage  
22 in any conduct that would obstruct any investigation  
23 by law enforcement.

24 And finally, if you don't agree with my  
25 decision, you have a right to appeal it. All right.



1                   Has Judge Koeltl set a conference date?

2                   MR. SOLOWIEJCZYK: Yes, Your Honor.

3                   July 25th at 11 a.m.

4                   THE COURT: Okay. All right. Is there  
5                   anything else we need to do at this time?

6                   MR. SOLOWIEJCZYK: Your Honor, the  
7                   government would move to exclude time under the  
8                   Speedy Trial Act between today and July 25th. Such  
9                   an exclusion is in the interest of justice and  
10                  outweighs the interests of the defendant and the  
11                  public in a speedy trial because, among other  
12                  things, it would allow the defense to begin  
13                  reviewing discovery and to consider any potential  
14                  pretrial motions they may wish to make.

15                  THE COURT: Any objection or other  
16                  concerns?

17                  MR. ALLEE: No. No objection,  
18                  Your Honor, although we've not received that  
19                  discovery. But once we do, it will allow that time,  
20                  and we have no objection to that request.

21                  THE COURT: All right. I grant the  
22                  exclusion of time to July 25th to and including  
23                  July 25th because I find that the needs of justice  
24                  outweigh the best interests of the public and the  
25                  defendant in a speedy trial based on the need for

1 the government to begin providing discovery to the  
2 defendant and for you to prepare for your next  
3 conference, among other things, with Judge Koeltl.

4 All right. Anything else we need to do  
5 at this time?

6 MR. SOLOWIEJCZYK: No. Thank you,  
7 Your Honor.

8 MR. ALLEE: No, Your Honor. Thank you.

9 THE COURT: All right. Thank you very  
10 much. We are adjourned.

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C E R T I F I C A T E

I, Adrienne M. Mignano, certify that the foregoing transcript of proceedings in the case of USA v. Alexander Mashinsky, Docket #23CR0347 was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Adrienne M. Mignano  
ADRIENNE M. MIGNANO, RPR

Date: July 31, 2023